

## Staff Summary Report



**Council Meeting Date:** 02/21/08

**Agenda Item Number:** \_\_\_\_\_

**SUBJECT:** Request approval of a professional services design contract with Project Engineering Consultants, Ltd. for Evelyn G. Hallman Park Waterline – Marigold Lane to McKellips Road.

**DOCUMENT NAME:** 20080221PWDR04 WATERMAIN CONSTRUCTION-NEW (0810-06)  
**PROJECT NO. 3207051**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Professional services design contract in an amount not to exceed \$47,704 with Project Engineering Consultants, Ltd., subject to execution of the final written contract.

**PREPARED BY:** DONNA RYGIEL, ENGINEERING CONTRACT ADMIN. (x8520)

**REVIEWED BY:** ANDY GOH, DEPUTY PW MANAGER/CITY ENGINEER (x8896)

**APPROVED BY:** GLENN KEPHART, PUBLIC WORKS MANAGER (x8205)

**LEGAL REVIEW AS TO FORM:** ANDREW CHING, CITY ATTORNEY (x8575)

**FISCAL NOTE:** Sufficient funds are available in Capital Improvement Fund No. 3207051.

**RECOMMENDATION:** Approve contract and authorize the Mayor to sign all necessary documents for the contract together with any required addenda.

**ADDITIONAL INFO:** The scope of work for this contract is to design a new 12" waterline from the Marigold Booster Pump Station to tie into an existing 12" line in McKellips Road. The new waterline will generally follow the alignment of an existing service driveway through Hallman Park and will provide a redundant path of flow from the booster station, parallel to the existing line in College Avenue, into the northern pressure zone.

The fee was negotiated by staff and is considered reasonable for the scope of services. Project Engineering Consultants, Ltd. was selected from our Consultant On-Call List consistent with Arizona Revised Statutes

This approval is conditioned upon execution of final written contract documents and approved submittals of any required ensure to insure affidavit, insurance certificates or other documents.



CITY OF TEMPE, ARIZONA  
PUBLIC WORKS DEPARTMENT  
DIVISION OF ENGINEERING

**CONTRACT FOR PROFESSIONAL SERVICES**

THIS CONTRACT is made and entered into on the 21<sup>st</sup> day of February, 2008, by and between the City of Tempe, hereinafter called CITY, and PROJECT ENGINEERING CONSULTANTS, LTD., hereinafter called the CONSULTANT.

The CITY engages the CONSULTANT to perform professional services for a project known and described as HALLMAN PARK WATERLINE – MARIGOLD LANE TO MCKELLIPS ROAD, Project No. 3207051, hereinafter called the "Project".

**SECTION I - SERVICES OF THE CONSULTANT**

The CONSULTANT shall perform the following professional services to CITY standards and in accordance with the degree of care and skill that a registered professional in Arizona would exercise under similar conditions:

- A. The CONSULTANT shall prepare plans and specifications and provide other design and post design services for the construction of approximately 1,500 feet of new 12 inch water line from the Marigold Booster Pump Station to the existing distribution system piping in McKellips Road, as described in Exhibit "A" attached.
- B. The CONSULTANT has assigned Tom Braateli as the Project Manager for this Contract. Prior written approval is required in the event the CONSULTANT needs to change the Project Manager. The CONSULTANT shall submit the qualifications of the proposed substituted personnel to the City for approval.
- C. The CONSULTANT shall prepare and submit a detailed opinion of probable cost of the project.
- D. The CONSULTANT shall follow and comply with the Public Improvement Project Guide as directed by the CITY.
- E. The CONSULTANT shall prepare plans and technical specifications per the requirements of the applicable chapters of the City's Engineering Design Criteria Manual, latest revision, and the Maricopa Association of Governments (MAG) Standard Specification and Details as amended by the CITY. All plans shall be prepared on CAD as required by the CITY. Final plans shall be submitted on 3 ml double matte black line mylar and shall be 24" x 36" in size.
- F. The CONSULTANT shall submit all final construction documents in both hard copy and electronic format. Plans shall be MicroStation or AutoCAD compatible and all other documents shall be Microsoft Office compatible. The software version used shall be compatible to current City standards. Other support documents, for example, structural calculations, drainage reports and geotechnical reports, shall be submitted in hard copy only.

## **SECTION II - PERIOD OF SERVICE**

The CONSULTANT shall complete all services within 365 calendar days of the "Notice to Proceed" date. In the event delays are experienced beyond the control of the CONSULTANT, the schedule may be revised as mutually agreed upon by the CITY and the CONSULTANT.

## **SECTION III - CONSULTANT'S COMPENSATION**

- A. The method of payment for this CONTRACT is payment by installments. Total compensation for the services performed shall not exceed \$47,704.00, unless otherwise authorized by the CITY. This fee includes the sum of \$36,906.00 for design and contract documents, an hourly not to exceed amount of \$4,348.00 for post design services, an allowance of \$2,200.00 for public meetings, an allowance of \$4,000.00 for re-vegetation plans and permitting fees, and an allowance of \$250.00 for reimbursable expenses, which in no event will ever be more than actual cost.
- B. The CITY shall pay the CONSULTANT in installments based upon monthly progress reports and detailed invoices submitted by the CONSULTANT subject to the following limitations:
  - 1. Prior to approval of the final design documents, payments to the CONSULTANTS shall not exceed 90 % of the total CONTRACT amount. The final approval and payment will be made within a reasonable period of time regardless of the project construction schedule.
  - 2. Payment for reimbursable expenses shall be made during all phases based on actual expenses.
- C. The CITY at its discretion may, by written notification, waive the above limitations.
- D. The CITY shall make payments to the CONSULTANT within thirty (30) days after receipt of the progress report and detailed invoice.

## **SECTION IV - THE CITY'S RESPONSIBILITIES**

- A. The CITY shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by the CITY on any aspect of the work shall be directed to the project manager.
- B. The CITY shall review submittals by the CONSULTANT and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONSULTANT'S work. The CITY will keep the CONSULTANT advised concerning the progress of the CITY'S review of the work. The CONSULTANT agrees that the CITY'S inspection, review, acceptance or approval of CONSULTANT'S work shall not relieve CONSULTANT'S responsibility for errors or omissions of the CONSULTANT or it's sub-consultant(s).

C. Unless included in the CONSULTANT'S Services as identified in Section I, the CITY shall furnish the CONSULTANT gratis, the following information or services for this Project:

1. One copy of its maps, records, laboratory tests, survey ties, and benchmarks, or other data pertinent to the services. However, the CONSULTANT shall be responsible for searching the records and requesting specific drawings or information and independently verifying said information.
2. Available CITY data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.
3. When required, title searches, legal descriptions, detailed ALTA Surveys, and environmental assessments to the end that the CITY may proceed with the right of way acquisition.

## **SECTION V - TERMINATION**

The CITY, at its sole discretion, may terminate this CONTRACT for convenience or abandon any portion of the Project for which services have not been performed by the CONSULTANT, upon fourteen (14) days written notice delivered to CONSULTANT personally or by certified mail at 2310 W. Mission Lane, Suite 4, Phoenix, AZ 85021. This CONTRACT may be terminated pursuant to ARS Sec. 38-511.

Immediately after receiving such notice, the CONSULTANT shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. The CONSULTANT shall appraise the services it has completed and submit an appraisal to the CITY for evaluation. The CITY shall have the right to inspect the CONSULTANT's work to appraise the services completed.

CONSULTANT shall deliver to the CITY all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT, entirely or partially completed, together with all unused materials supplied by the CITY.

In the event of such termination or abandonment, the CONSULTANT shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred.

If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONSULTANT based upon the scope of work set forth in Exhibit A, and shall be agreed upon mutually by the CONSULTANT and the CITY. However, in no event shall the fee exceed that set forth in Section III of the attached CONTRACT.

The CITY shall make final payment within sixty (60) days after the CONSULTANT has delivered the last of the partially completed items and the final fee has been agreed upon.

In the event this CONTRACT is terminated, the CITY shall have the option of completing the work, or entering into a CONTRACT with another party for the completion of the work according to the provisions and agreements herein.

#### **SECTION VI - SUPPLEMENTAL CONTRACT PROVISIONS**

The supplemental contract provisions to this CONTRACT are attached hereto and incorporated herein by reference as if fully set forth.

Hallman Park Waterline--Marigold Lane to McKellips Road  
Project No. 3207051

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

CITY OF TEMPE, ARIZONA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Public Works Manager

ATTEST:

\_\_\_\_\_  
City Clerk

Recommended By:

Andy  
Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**The CONSULTANT warrants that the person who is signing this CONTRACT on behalf of the CONSULTANT is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.**

CONSULTANT  
Project Engineering Consultants, Ltd.

Ten Brink  
Name

Project Manager  
Title

86-0466210  
Federal I.D. No. /Social Security No.

Certified to be a true and exact copy.

\_\_\_\_\_  
Karen M. Fillmore  
Records Specialist

CITY OF TEMPE  
TEMPE, ARIZONA  
DEPARTMENT OF PUBLIC WORKS

AFFIDAVIT OF GENERAL CONTRACTOR / PRIME CONSULTANT  
REGARDING  
HEALTH INSURANCE

\_\_\_\_\_,  
Arizona

Date \_\_\_\_\_

Hallman Park Waterline-Marigold Lane to McKellips Road  
Project No. 3207051

I hereby certify that \_\_\_\_\_ (name of company) currently has, and all of its major subcontractors/subconsultants, defined as doing work in excess of \$30,000.00, will have, during the course of this contract, health insurance for all employees working on this project and will offer health insurance coverage to eligible dependents of such employees, as defined in the accompanying Guidelines. The company's health insurance is as follows:

Name of Insurance Company: \_\_\_\_\_

Type of Insurance (PPO, HMO, POS, INDEMNITY): \_\_\_\_\_

Policy No.: \_\_\_\_\_

Policy Effective Date (MM/DD/YY): \_\_\_\_\_

Policy Expiration Date (MM/DD/YY): \_\_\_\_\_

Signed and dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
General Contractor/Prime Consultant

By: \_\_\_\_\_

STATE OF ARIZONA            )  
  ) ss  
COUNTY OF MARICOPA        )

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

## **City of Tempe**

### **Guidelines for Implementation of Health Insurance**

These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the start of each project. Questions regarding these guidelines should be directed to the City of Tempe Engineering Division at (480) 350-8200.

1. All Prime Consultants who enter into a Public Works contract or General Contractors who bid on Public Works projects that are advertised for bid and enter into a contract in excess of \$30,000 with the City of Tempe after January 1, 2001, are required to sign an affidavit in the form attached hereto. The prime consultant or general contractor shall require that all major subconsultants or subcontractors, defined as entities doing work in excess of \$30,000, comply with the health insurance requirements. In signing the affidavit, prime consultants and general contractors may refer to and rely upon these Guidelines for interpretation.
2. Health insurance is required for permanent employees who work for the consultant/contractor more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four hour period, regardless of number of hours, that the individual is paid. This requirement excludes students working part-time who are enrolled in a recognized educational institution. Many companies have a grace period or a qualifying period prior to commencement of insurance coverage, which is acceptable so long as the employee coverage begins by the 120<sup>th</sup> day of contract signing. Temporary employees will be covered to the same extent as the City of Tempe covers temporary employees as determined at the start of each project.
3. If a contractor is a "Union" shop and withholds union dues from employees for health insurance coverage that is also offered to their eligible dependents and meets all City requirements, the Contractor may so note on the required affidavit.
4. The health insurance requirements herein apply to all employees that are directly involved with the City of Tempe project including support and administrative personnel.
5. Health insurance coverage must be maintained during the entire time of the contract, including any warranty periods, with the City.
6. All complaints concerning violations of the health insurance requirements shall be filed by an employee, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Manager, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision



of the Public Works Manager may be made within ten (10) days of the date of the decision by filing a notice of appeal in writing with the Public Works Department. If an appeal is timely filed, an administrative hearing will be held before an administrative hearing officer appointed by the City Manager. The decision of the administrative hearing officer shall be final.

7. In the event of a finding by the City of a violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any public works contract with the City for a minimum period of three (3) years.
8. All consultants and contractors subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by the City.

These "Guidelines for Implementation of Health Insurance", issued and dated this 21st day of August, 2002, hereby amend all guidelines previously issued.

  
Glenn Kephart, P.E.  
Public Works Manager

CITY OF TEMPE, ARIZONA  
PUBLIC WORKS DEPARTMENT  
DIVISION OF ENGINEERING

**SUPPLEMENTAL CONTRACT PROVISIONS**

**SECTION I - INSURANCE**

Without limiting any of their obligations or liabilities, the CONSULTANT, at its own expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance, and with forms reasonably satisfactory to the CITY. Each insurer shall have a current A.M. Best Company, Inc. rating of not less than A-VII. Use of alternative insurers requires prior approval from the CITY.

**A. General Clauses**

1. **Additional Insured.** The insurance coverage, except Workers' Compensation and Professional Liability, required by this CONTRACT, shall name the CITY, its agents, representatives, directors, officials, and employees, as additional insured, and shall specify that insurance afforded the CONSULTANT shall be primary insurance, and that any self insured retention and/or insurance coverage carried by the CITY or its employees shall be excess coverage, and not contributory coverage to that provided by the CONSULTANT.
2. **Coverage Term.** All insurance required herein shall be maintained in full force and effect until Services required to be performed under the terms of this CONTRACT are satisfactorily completed and formally accepted; failure to do so may constitute a material breach of this CONTRACT, at the sole discretion of the CITY.
3. **Primary Coverage.** The CONSULTANT's insurance shall be primary insurance as respects the CITY and any insurance or self insurance maintained by the CITY shall be in excess of the CONSULTANT'S insurance and shall not contribute to it.
4. **Claim Reporting.** CONSULTANT shall not fail to comply with the claim reporting provisions of the policies or cause any breach of a policy warranty that would affect coverage afforded under the policy to protect the CITY.
5. **Waiver.** The policies for Workers' Compensation and General Liability shall contain a waiver of transfer rights of recovery (subrogation) against the CITY, its agents, representatives, directors, officers, and employees for any claims arising out of the work of the CONSULTANT.

6. **Deductible/Retention.** The policies may provide coverage, which contains deductibles or self-insured retentions. Such deductible or self-insured retentions shall not be applicable with respect to the coverage provided to the CITY under such policies. The CONSULTANT shall be solely responsible for deductible or self-insured retentions and the CITY may require the CONSULTANT to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
7. **Policies and Endorsements.** The CITY reserves the right to request and to receive, within 10 working days, information on any or all of the above policies or endorsements.
8. **Certificates of Insurance.** Prior to commencing services under this CONTRACT, CONSULTANT shall furnish the CITY with Certificates of Insurance, or formal endorsements as required by the CONTRACT, issued by CONSULTANT'S insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this CONTRACT are in full force and effect. Such certificates shall identify this CONTRACT by referencing the project number and/or project name and shall provide for not less than thirty (30) days advance written notice by Certified Mail of cancellation or termination of insurance.
9. **Sub-Consultants/Contractors.** CONSULTANT shall include all sub-consultants and sub-contractors as insured under its policies or shall furnish separate certificates and endorsements for each sub-consultant and sub-contractor.

#### **B. Workers' Compensation**

The CONSULTANT shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONSULTANT employees engaged in the performance of the Services; and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

In case Services are sub-contracted, the CONSULTANT shall require the sub-consultant to provide Workers' Compensation and Employer's Liability to at least the same extent as provided by the CONSULTANT.

### **C. Automobile Liability**

The CONSULTANT shall carry Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damages of not less than \$1,000,000 each occurrence regarding any owned, hired, and non-owned vehicles assigned to or used in performance of the CONSULTANT Services. Coverage will be at least as broad as coverage Code 1 "any auto" (Insurance Service Office policy form CA 0001 1/87 or any replacements thereof). Such coverage shall include coverage for loading and unloading hazards.

### **D. Commercial General Liability**

The CONSULTANT shall carry Commercial General Liability insurance with a combined single limit of not less than \$1,000,000. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of this CONTRACT, which coverage will be at least as broad as Insurance Service Office policy form CG 0002 1-11-88 or any replacement thereof.

In the event the general liability insurance policy is written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Services as evidenced by annual Certificates of Insurance.

Such policy shall contain a "severability of interests" provision (also known as "cross liability" and "separation of insured").

### **E. Professional Liability**

The CONSULTANT retained by the CITY to provide the engineering services required by the CONTRACT will maintain Professional Liability insurance covering errors and omissions arising out of the Services performed by the CONSULTANT or any person employed by him, with an unimpaired limit of not less than \$1,000,000 each claim and \$1,000,000 all claims, or 10% of the construction budget, whichever is larger. In the event the insurance policy is written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Services as evidenced by annual Certificates of Insurance.

### **F. Property Coverage – Valuable Papers**

The CONSULTANT shall carry Property coverage on all-risk, replacement cost, agreed amount form with Valuable Papers insurance sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the services of the CONSULTANT used in the completion of this CONTRACT.

## **HEALTH INSURANCE REQUIREMENTS**

All Consultants who enter into a Public Works contract in excess of \$30,000.00 with the City of Tempe, after January 1, 2001, must certify that they have, and all of their major sub-consultants will have, health insurance for all employees. Health insurance must be offered to eligible dependents of all such employees. An affidavit must be signed in the form included herein (Page AFF-1). Major sub-consultants are defined as entities doing work in excess of \$30,000.00 as determined at the start of each project. All required health insurance must be maintained during the entire time of the contract with the City.

Health insurance is required for all consultant and major sub-consultant employees who work more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four hour period, regardless of number of hours, that the individual is paid. At this time, health insurance is not required for temporary employees or students working part-time who are enrolled in a recognized educational institution.

The health insurance requirements shall apply to all employees directly involved with this City project including support and administrative personnel.

All complaints concerning violations of the health insurance requirements shall be filed, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Manager, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision of the Public Works Manager may be made within ten (10) days of the date of the decision by filing a notice of appeal in writing with the Public Works Department. If an appeal is timely filed, an administrative hearing will be held before an administrative hearing officer appointed by the City Manager. The decision of the administrative hearing officer shall be final.

In the event of a finding of violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any Public Works contract with the City for a period of three (3) years from the execution of the contract.

All Consultants subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by the City at the Pre-construction Conference for Contractors and sent with the executed contract for Consultants.

## **SECTION II - OWNERSHIP OF DOCUMENTS**

All work products (electronically or manually generated) including but not limited to plans, specifications, cost estimates, tracings, studies, design analyses, original mylar drawings, computer aided drafting and design (CADD) file diskettes which reflect all final drawings, and other related products which are prepared in the performance of this CONTRACT are the property of the CITY and are to be delivered to the CITY before the final payment is made to the CONSULTANT.

The CITY shall retain ownership of these original drawings, however, if approved in writing by the CITY, the CONSULTANT may retain the original drawings and supply the CITY with reproducible mylar copies. CONSULTANT shall endorse by his/her professional seal all plans and special provisions furnished by him/her.

In the event these documents are used for another project without further consultations with the CONSULTANT, the CITY agrees to indemnify and hold the CONSULTANT harmless from any claim arising from the reuse of the documents. The CITY shall remove the CONSULTANT'S seal and title block from such documents.

The CONSULTANT shall retain full copyrights of all documents produced by the CONSULTANT on behalf of City in connection with the Services of this CONTRACT, with exception of CITY rights to use drawings for reproduction and promotional purposes.

## **SECTION III - CONFLICT OF INTEREST**

The CONSULTANT agrees to promptly disclose any financial or economic interest in the Project property, or any property affected by the Project, existing prior to the execution of this CONTRACT. Further, the CONSULTANT agrees to promptly disclose any financial or economic interest with the Project property, or any property affected by the Project, if the CONSULTANT gains such interest during the course of this CONTRACT.

If the CONSULTANT gains any financial or economic interest in the Project during the course of this CONTRACT, this may be grounds for terminating this CONTRACT at the sole discretion of the CITY.

The CONSULTANT shall not engage the services on this CONTRACT of any present or former CITY employee who was involved as a decision maker in the selection or approval processes, or who negotiated or approved billings or contract modifications for this CONTRACT.

The CONSULTANT agrees that it shall not perform services on this Project for the contractor, sub-contractor, or any supplier.

The CONSULTANT shall not negotiate, contract, or make any agreement with the contractor, sub-contractor, or any supplier with regard to any of the work under this Project, or any services, equipment or facilities to be used on this Project.

#### **SECTION IV - COVENANT AGAINST CONTINGENT FEES**

The CONSULTANT affirms that he has not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT to solicit or secure this CONTRACT, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the CONTRACT. For breach or violation of this clause, the CITY may terminate this CONTRACT without liability, or in its discretion may deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

#### **SECTION V - INDEMNIFICATION**

To the fullest extent permitted by law, the CONSULTANT shall defend, indemnify and hold harmless the CITY, its agents, officers, officials, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees, court costs, and the costs of appellate proceedings), relating to, arising out of, or alleged to have resulted from the negligent acts, errors, mistakes or omissions in the work, services, or professional services of the CONSULTANT, its agents, employees, or any other person (not the CITY) for whose negligent acts, errors, mistakes or omissions in the work, services, or professional services the CONSULTANT may be legally liable in the performance of this contract. CONSULTANT'S duty to defend, hold harmless and indemnify the CITY, its agents, officers, officials, and employees shall arise in connection with any claim for damage, loss, or expenses that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of any person or property, including loss of use resulting therefrom, caused by any negligent acts, errors, mistakes, omissions, work, services, or professional services in the performance of this contract by CONSULTANT or any employee of the CONSULTANT, or any other person (not the CITY) for whose negligent acts, errors, mistakes, omissions, work, or services the CONSULTANT may be legally liable. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

#### **SECTION VI - DISPUTE RESOLUTION**

In the event of a dispute concerning questions of fact that arise during the course of the CONTRACT, the parties will meet in good faith to attempt to resolve such questions.

## **SECTION VII - ADDITIONAL SERVICES**

Additional services which are outside the scope of basic services contained in this CONTRACT shall not be performed by the CONSULTANT without prior written authorization from the CITY. Additional services, when authorized by an executed contract or an Amendment to this CONTRACT shall be compensated for by a fee mutually agreed upon between the CITY and the CONSULTANT.

## **SECTION VIII - SUCCESSORS AND ASSIGNS**

This CONTRACT shall not be assignable except at the written consent of the parties hereto and it shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

## **SECTION IX- SPECIAL PROVISIONS**

The CONSULTANT shall comply with all applicable Federal, State, and local laws and ordinances at the time the plans are sealed, and will not discriminate against any person on the basis of race, color, or national origin in the performance of this CONTRACT, and shall comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354.

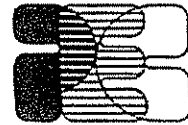
The CONSULTANT further agrees to insert the foregoing provisions in all sub-contracts hereunder, except sub-contracts for standard commercial supplies or raw materials. Any violation of such provisions shall constitute a material breach of this CONTRACT.

This CONTRACT shall be in full force and effect only when it has been approved by the City Council of the City of Tempe, Arizona, and when executed by the duly authorized CITY officials and the duly authorized agent of the CONSULTANT.



# EXHIBIT A

**Project Engineering Consultants, Ltd.**



January 23, 2008

City of Tempe Public Works  
31 East Fifth Street  
Tempe, Arizona 85281

Attn: Phil Brown

Subject: City of Tempe Hallman Park 12 Inch Water Line (Marigold to McKellips)

Re: Fee Proposal

Gentlemen:

Project Engineering Consultants, Ltd. (PEC) is pleased to offer this proposal to provide engineering services for the above referenced project.

This project entails installation of approximately 1,500 feet of Polywrapped 12 inch diameter ductile iron pipe to be installed along the westerly side of Hallman (Canal) Park. The proposed water line will connect to a cut-in tee at the south end (plant side) and to a cut-in cross at the north end. Two additional valves will be spaced per City's requirements. The water line is to be installed along an alignment that was selected by the City of Tempe.

Project Engineering Consultants, Ltd.  
Engineers • Planners • Surveyors  
2310 W. Mission Lane, Suite 4, Phoenix, Arizona 85021 (602) 906-1901 Fax (602) 906-3080 e-mail: pec@pecaz.com

A handwritten signature in dark ink, appearing to be 'PB' or 'Phil Brown', located in the bottom right corner of the page.

*City of Tempe Hallman Park 12 Inch Water Line*

Our estimate for completing the direct labor portion of the Design Services work is a lump sum fee of \$36,906

Additional Design Services proposed allowances are:

Re-vegetation Plan (McGough Group) \$2,800

Reprographics \$250

MCESD Fee for Application for Approval to Construct (expedited review) \$1,200

Public Meeting (if required) \$2,200

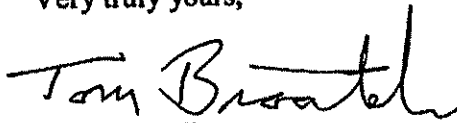
Our estimate for completing the Post Design Services portion of the work is hourly not to exceed fee of \$4,348

Attached are the following exhibits:

Exhibit A-	Scope of Services
Exhibit B-	Design Services Fee Estimate
Exhibit C-	Construction Services Estimate
Exhibit D-	Estimated Schedule

Please call if you have any questions with our proposal.

Very truly yours,

  
Tom Braatlien

City of Tempe  
Public Works/Engineering  
31 East Fifth Street,  
Tempe, Arizona 85281

## **EXHIBIT A**

### **Hallman Park 12 Inch Water Line (Marigold to McKellips)**

**January 23, 2008**

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#### **SCOPE OF SERVICES**

This project entails installation of approximately 1,500 feet of Polywrapped 12-inch diameter ductile iron pipe to be installed along the westerly side of Hallman (Canal) Park. The proposed water line will connect to a cut-in tee at the south end (plant side) and to a cut-in cross at the north end. Two additional valves will be spaced per City's requirements. The water line is to be installed along an alignment that was selected by the City of Tempe.

#### **DESIGN SERVICES**

##### **Task A1 Perform Topographic Survey**

Project Engineering Consultants, Ltd.(PEC) shall perform a limited topographical survey along the proposed pipe alignment marked out by the City of Tempe.

##### **Deliverables:**

No deliverables are associated with this task.

##### **Task A2 Prepare Legal Description and Exhibit**

PEC shall prepare and submit a legal description and a legal exhibit for the proposed 12 inch water line easement.

##### **Deliverables:**

One bond 8-1/2x11 legal description and one bond 8-1/2x11 legal exhibit to be submitted to the City of Tempe at time of Final Plan submission.

##### **Task A3 Preliminary Field Investigation**

PEC shall conduct a preliminary field investigation to determine site constraints and special requirements.

##### **Deliverables:**

No deliverables are associated with this task.

##### **Task A4 Coordinate with City of Tempe Parks Department**

PEC shall coordinate with the City of Tempe Parks Department.

##### **Deliverables:**

No deliverables are associated with this task.

RB

**Task A5 Re-Vegetation Plan**

PEC shall prepare a Re-vegetation plan for existing vegetation that requires removal and replacement as required for the water line installation. Irrigation design is not anticipated. PEC will use the services of a sub consultant (McGough Group) to prepare the plan. Work under this task includes the PEC coordination and effort required. The sub consultant's fee is covered under the "Re-Vegetation Plan" allowance item.

**Deliverables:**

The Re-Vegetation plan will be included in the plans at the 90% and final plan submittals.

**Task A6 Design SRP Outfall Crossing**

PEC shall design the SRP Outfall Crossing which includes a 24 inch x 48 inch elliptical RCP conduit grouted into 12 inch river rock with an inlet sump constructed of mortared banks. The water line will be designed to cross over the top of the elliptical conduit and will be covered with compacted native backfill.

**Deliverables:**

Details of the crossing design will be included on the 60%,90% and final plans.

**Task A7 Prepare 30% Plans**

PEC shall prepare 30% plans in AutoCAD 2000 format at 1"=20' HZ scale sized for 22 inch x 34 inch plan sheets. The City will provide the base cover sheet and cover sheet in AutoCAD format via the City Website. The 30% plans will consist of a cover sheet, note sheet and a preliminary alignment shown on base topo. Profile, quantities, specific notes and details will not be shown.

**Deliverables:**

Three sets of 11"x17" bond blackline plans submitted to the City of Tempe.

**Task A8 Prepare 60% Plans**

Upon receipt of the City review red lines of the 30% plans with agreed upon final alignment identified, PEC shall prepare and submit 60% plans. The 60% plans will include the final alignment and profile (profile at 1"=5' scale) with all necessary construction notes, quantities, and details. The City will provide Tempe-specific details in AutoCAD format via email or CD.

**Deliverables:**

Three sets of 11"x17" bond blackline plans submitted to the City of Tempe.

**Task A9 Prepare 90% Plans**

Upon receipt of the City review red lines of the 60% plans, PEC shall prepare and submit 90% plans.

**Deliverables:**

Three sets of 11"x17" bond blackline plans submitted to the City of Tempe.

feb

**Task A10 Prepare Final Plans**

Upon receipt of the City review red lines of the 90% plans, PEC shall prepare and submit Final Plans.

**Deliverables:**

One set of 24"x36" Wet Sealed Original Contract Drawing Mylars (drawings sized for 22"x34") submitted to the City of Tempe.

**Task A11 Prepare Preliminary Construction Cost Estimate**

PEC shall prepare a preliminary cost estimate for the construction of the water line and associated improvements.

**Deliverables:**

One Preliminary Construction Cost Estimate to be submitted at the 90% and the final plan submissions. Submittal made electronically (MSExcel) to the City of Tempe via email.

**Task A12 Special Provisions**

The project will be stipulated to comply with MAG Specifications. Therefore, only a small number of special provisions are anticipated to be necessary. PEC will prepare special provisions related to the water line components and installation where not adequately addressed in the MAG specifications. The special provision boiler plate will be derived from the special provisions prepared by PEC for the City of Tempe Rural-Lemon-Terrace Project. Any other required special provisions will be provided by the City of Tempe.

**Deliverables:**

One Special Provision document to be submitted at the 90% and the final plan submissions. Submittal made electronically (MSWord) to the City of Tempe via email.

**Task A13 Project Meetings**

PEC shall meet with the City of Tempe once during the design phase of the project.

**Deliverables:**

No deliverables are associated with this task.

**Task A14 MCESD Design Report and Application for Approval to Construct**

PEC shall prepare the MCESD Design Report and the Application for Approval to Construct and submit to MCESD for approval. The cost of the application for an expedited MCESD review is included as an allowance item.

**Deliverables:**

One 8-1/2x11 copy of the MCESD Approval to Construct submitted to the City of Tempe upon receipt.

PCB

**Task A15 Public Meeting**

At the City of Tempe request, PEC shall attend one public meeting. The meeting will be arranged, coordinated, and run by the City of Tempe. PEC will prepare one 24 inch x 36 inch exhibit of the project. The exhibit will consist of an aerial photograph of the park (to be provided by the City of Tempe) with the water line alignment depicted via AutoCad on the aerial. This work will be covered under the "Public Meeting" allowance.

**Deliverables:**

One 24"x36" bond color exhibit glued on foam board.

**Task A16 Quality Assurance/Quality Control**

PEC shall perform a QA/QC on all deliverables.

**POST DESIGN SERVICES (Hourly Not to Exceed)**

Construction management, inspection, and certification will be provided by the City of Tempe.

**Task B1 Shop Drawing Review**

PEC shall review water line component shop drawings where requested by the City of Tempe.

**Deliverables:**

PEC shall stamp and return shop drawings to the City of Tempe.

**Task B2 Respond to Contractor's Requests for Information (RFI)**

PEC shall respond to RFI's.

**Deliverables:**

PEC shall respond to the RFI's via email.

**Task B3 Site Visit**

PEC shall send one engineer to make two site visits during the construction.

**Deliverables:**

No deliverables are associated with this task.

**Task B4 Record Drawings**

Red line as-builts are to be prepared, verified and certified by the Contractor. Upon receipt of the contractor's red line as-builts, PEC shall place (via AutoCAD) the red line as-built information on an electronic scan of the Wet Sealed Original Contract Drawing Mylars. The City of Tempe will provide PEC with the Wet Sealed Original Contract Drawing Mylars (PEC will return after scanning).

**Deliverables:**

One set of 24"x36" Mylar "Record Drawings" submitted to the City of Tempe.

PCB

EXHIBIT B

CITY OF TEMPE  
HALLMAN PARK 12 INCH WATER LINE (MARIGOLD TO MCKELLIPS)

DESIGN SERVICES FEE ESTIMATE

January 23, 2008

Prepared by By: T. Braatleien

TASK	Project Principal (QA/QC&mtgs)		Project Manager/Senior Engineer		Project Engineer		Survey Manager		Survey Crew		CADD Technician		Total Direct Labor Fees	
	HRS	AMT	HRS	AMT	HRS	AMT	HRS	AMT	HRS	AMT	HRS	AMT	HRS	AMT
<b>Design Services</b>														
A1 Perform Topographic Survey			0.5	\$73			8	\$1,004	24	\$3,848	8	\$758	41	\$5,683
A2 Prepare Legal Description and Exhibit			0.5	\$73			4	\$502			4	\$379	9	\$854
A3 Preliminary Field Investigation			4	\$588								\$0	4	\$588
A4 Coordinate with City of Tempe Parks Department			2	\$294								\$0	2	\$294
A5 Re-Vegetation Plan			2	\$294	2	\$213						\$0	4	\$507
A6 Design SRP Outfall Crossing			2	\$294	4	\$426					4	\$379	10	\$1,088
A7 Prepare 30% Plans	0.5	\$101	6	\$881	12	\$1,277					40	\$3,790	59	\$8,049
A8 Prepare 60% Plans	0.5	\$101	6	\$881	12	\$1,277					40	\$3,790	59	\$8,049
A9 Prepare 90% Plans	0.5	\$101	4	\$588	8	\$851					36	\$3,411	48	\$4,950
A10 Prepare Final Plans	0.5	\$101	4	\$588	8	\$851					24	\$2,274	37	\$3,814
A11 Prepare Preliminary Construction Estimate				\$0	4	\$426					4	\$379	8	\$805
A12 Special Provisions			8	\$1,175	16	\$1,702						\$0	24	\$2,878
A13 Project Meetings	4	\$608	4	\$588		\$0						\$0	8	\$1,366
A14 Prepare & submit MCESD App. for App. to Construct				\$0	8	\$851						\$0	8	\$851
A16 Quality Assurance/Quality Control	2	\$404	4	\$588								\$0	6	\$992
<b>TOTAL</b>	<b>8</b>	<b>\$1,616</b>	<b>47</b>	<b>\$6,905</b>	<b>74</b>	<b>\$7,873</b>	<b>12</b>	<b>\$1,506</b>	<b>24</b>	<b>\$3,848</b>	<b>160</b>	<b>\$15,158</b>	<b>325</b>	<b>\$36,806</b>

Allowances:

Re-vegetation Plan (McGough Group) \$2,800

Reprographics \$250

MCESD Fee for Application for Approval to Construct (expedited review) \$1,200

Public Meeting \$2,200

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# EXHIBIT C

## CITY OF TEMPE

### HALLMAN PARK 12 INCH WATER LINE (MARIGOLD TO MCKELLIPS)

#### POST DESIGN SERVICES FEE ESTIMATE

January 23, 2008

Prepared by By: T. Braatellen

TASK	Project Principle		Project Manager/Senior Engineer		Project Engineer		CADD Technician		Total Direct Labor Fees	
	HRS	AMT	HRS	AMT	HRS	AMT	HRS	AMT	HRS	AMT
Post Design Services (Hourly Not to Exceed) B1 Shop Drawing Review B2 Respond to Contractor's RFI's B3 Site Visit B4 Record Drawings	0.5	\$101	2	\$294	4	\$426			5	\$820
	0.5	\$101	2	\$294	4	\$426			5	\$820
			2	\$294	8	\$851			8	\$851
			2	\$294	4	\$426	12	\$1,137	16	\$1,856
	1	\$202	6	\$881	20	\$2,128	12	\$1,137	33	\$4,348
TOTAL										

PCB



EXHIBIT D

CITY OF TEMPE  
HALLMAN PARK 12 INCH WATER LINE (MARIGOLD TO McKELLIPS)

ESTIMATED SCHEDULE

1/23/2008

Prepared By: T. Braatelen

TASK	DESCRIPTION	2008							
		Start	Finish	FEB	MAR	APRIL	MAY	JUNE	JULY
	City Council	2/21/2008		↔					
	NOTICE TO PROCEED	3/3/2008							
A1	Perform Topographic Survey								
A2	Prepare Legal Description and Exhibit and submit to City of Tempe							XX	
A3	Preliminary Field Investigation								
A4	Coordinate with Tempe Parks Dept.				X	XXXX	XXXX	XXXX	
A5	Prepare Re-Vegetation Plan						XX	XX	
A6	Design SRP Outfall Crossing					XX			
A7	Prepare 30% Plans					XX			
	Review of 30% Plans by City of Tempe								
A8	Prepare 60% Plans					XX			
	Review of 60% Plans by City of Tempe						XX		
A9	Prepare 90% Plans, Specs & Construction Cost Estimate (PS&E)							XX	
	Review of 90% PS&E by City of Tempe								
A10	Prepare and Submit Final PS&E to City of Tempe								
	Submit Final Plans and Application for Approval to Construct to MCESD							XX	
A14	MCESD issue Approval to Construct								XX
	START CONSTRUCTION		7/11/2008						X
									↔

PCL